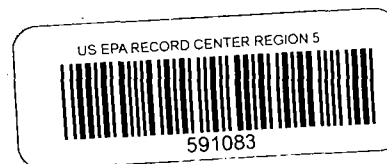


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

978376



UNITED STATES OF AMERICA,

Plaintiff,

vs

CIVIL ACTION NO.
S90-00056CONSOLIDATED RAIL CORPORATION,
a/k/a CONRAIL,

Judge Robert J. Miller

Defendant.

DEPOSITION OF: ARTHUR V. STONER, JR.
DATE TAKEN: February 25, 1993
TIME: 10:55 a.m. to 11:43 a.m.
PLACE TAKEN: 2000 Main Street
Fort Myers, Florida
BEHALF OF: Plaintiff
REPORTER: Sandra Stevens, RPR, CM
Notary Public
State of Florida at Large

1 APPEARANCES:

2 For the Plaintiff:

3 United States Department of Justice
 4 Environmental Enforcement Section
 5 Environment and Natural Resources Division
 Post Office Box 7611 Ben Franklin Station
 Washington, D.C. 20044

6 By: PETER H. RUVOLO

7
 8 For the Defendant:

9 BINGHAM, DANA & GOULD
 Suite 1200
 1550 M. Street, N.W.
 10 Washington, D.C. 20005

11 By: JAMES A. ERMILIO

12
 13 FROST & JACOBS
 2500 Central Trust Center
 201 East Fifth Street
 14 Cincinnati, Ohio 45202

15 By: PIERCE E. CUNNINGHAM

16
 17 I N D E X

18	ATTORNEY	DIRECT	CROSS	REDIRECT	RECROSS
19	Mr. Ruvolo	3		28	
20	Mr. Cunningham		19		

21
 22 E X H I B I T S

23	NO.	DESCRIPTION	MARKED
24	1	Subpoena and notice of deposition	5
25	2	Yard map	28

LAWYER'S NOTES

[illegible]

1 Thereupon,

2 ARTHUR V. STONER, JR.,

3 was called as a witness by the Plaintiff, duly sworn,
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. RUVOLO:

7 Q. Good morning, Mr. Stoner. Would you please state
8 your full name?

9 A. Arthur Vernon Stoner, Jr.

10 Q. And your address?

11 A. (b) (6)

12 Q. And a telephone number at which you can be
13 reached?

14 A. (b) (6)

15 Q. Mr. Stoner, you received a notice of deposition
16 and a subpoena to be here today?

17 A. Yes, I did.

18 Q. I believe you are also advised that you are not a
19 party to this action, you are a witness?

20 A. Yes.

21 Q. And you have the right to your own counsel if you
22 desire, that's up to you, and you did not bring counsel
23 with you?

24 A. No, I did not.

25 Q. You were also requested, if you had any, to bring

1 1 any documents at all concerning employment with the
2 2 railyard. Did you bring any documents with you?

3 A. No, I have nothing.

4 Q. As you know, my name is Peter Ruvolo, I'm an
5 5 attorney with the Justice Department and we represent the
6 6 Environmental Protection Agency in this matter, which is a
7 7 civil proceeding seeking to recover costs for any clean-up
8 8 out at the Elkhart railyard facility from Conrail
9 9 Corporation. To my right is Mr. Ermilio who represents
10 10 Conrail in this proceeding, and Mr. Pierce Cunningham, who
11 11 was also noticed for this deposition, represents Penn
12 12 Central.

13 Just for the record, I'd like you to state -- for
14 14 it to show that we are starting at 10:55 a.m. in the
15 15 morning, the notice was scheduled for 10:30 and Mr.
16 16 Cunningham has not yet arrived.

17 During the course of the deposition if I ask you
18 18 a question that you don't understand, please don't hesitate
19 19 to say so.

20 A. All right.

21 Q. If you need a break, let us know. And we are
22 22 here to just find out some information about your
23 23 activities out at the yard. Tell us a little bit about
24 24 your background.

25 MR. RUVOLO: One other thing, would you just mark

1 the notice of deposition and subpoena as Exhibit 1.

2 (Document marked as Exhibit Number 1.)

3 Q. Tell us about yourself a little bit, where were
4 you born and what kind of education have you had?

5 A. I was born in Elkhart, Indiana, in 1928, and I
6 have a high school education, and served about two years in
7 the Navy, and approximately 43 years in the railroad.

8 Q. When did you first start year wise?

9 A. Year wise, I hired out January of 1944.

10 Q. At that time it was New York Central?

11 A. At that time it was New York Central, yes.

12 Q. And where was that?

13 A. In Elkhart.

14 Q. In Elkhart?

15 A. Yes.

16 Q. So they were running at Elkhart. At that time
17 was it an interchange station as it is today with the
18 humping of trains?

19 A. Yes, uh-huh, it wasn't as big as it is today, at
20 that time it was a much smaller operation.

21 Q. And what was your position with them?

22 A. When I hired out?

23 Q. Yeah.

24 A. Call boy.

25 Q. And during your years at Penn Central what other

1 positions -- I mean, at New York Central what other
2 positions did you hold?

3 A. Well, after I come out of the service I went out
4 to the yard office and worked as a yard clerk, and then
5 after they built the new yard in 1958, why, in 1959 I was
6 appointed supervisor of yard procedures there which was in
7 charge of all the office operations. And I held that for
8 approximately three years, then I left the railroad for
9 about a year and a half and went elsewhere to work.

10 Q. That was in the early '60's?

11 A. Yeah, early '60's.

12 Q. And then you subsequently returned, was it still
13 New York Central when you came back?

14 A. No -- yes, yes, it was, it was still New York
15 Central.

16 Q. Okay. And all this time you are still out at the
17 Elkhart -- I mean, you are at the Elkhart facility?

18 A. Elkhart facilities, yes.

19 Q. Approximately when did Penn Central take over
20 from New York Central?

21 (Discussion off the record).

22 MR. RUVOLO: Good morning.

23 MR. CUNNINGHAM: Go ahead.

24 MR. RUVOLO: We just started a few minutes ago.

25 (Discussion off the record).

2 1 A. It was the late '60's, if I'm not mistaken.

2 Q. And when Penn Central took over what position did
3 you hold at that point?

4 A. At the time that Penn Central took over I was at
5 Burns Harbor.

6 Q. Where is that, sir?

7 A. In Burns Harbor, Indiana, by Gary. It was a yard
8 up there that handled the switching for Bethlehem Steel and
9 Midwest Steel. I was supervisor of yard procedures up
10 there at that time.

11 Q. And how long did you stay at Burns Harbor?

12 A. About two years, about two years.

13 Q. And then you returned to Elkhart?

14 A. Yeah. They wanted me to move, and my wife at
15 that time would -- I was, you know, going back and forth
16 between Elkhart and Burns Harbor and my wife wouldn't move
17 so I just said, well, the heck with it, and I went back
18 into the union.

19 Q. When you say you went back into the union --

20 A. At Elkhart, yeah.

21 Q. What does that entail?

22 A. I went back clerking.

23 Q. Back clerking?

24 A. Yeah.

25 Q. And other than clerking what other positions did

2 1 you hold with Penn Central prior to Conrail becoming
2 2 involved?

3 A. Nothing, no.

4 Q. And what were the functions in the clerk
5 5 position?

6 A. Well, just various clerical jobs, you know, key
7 7 punch and chief clerk, crew dispatcher. Whatever job that
8 8 looked appealing, why, you bid it.

9 Q. So it could entail various functions, whatever.
10 10 particular spot was open in the clerk's office at the time
11 11 you would --

12 A. Well, I worked with bidding the regular job, and
13 13 like the crew dispatcher, I bid that in. And after a while
14 14 you get tired of that and something else will come up for
15 15 bid and you just bid in another job there in the office,
16 16 and so I worked every job in the office at one time or
17 17 another.

18 Q. And generally what are the functions of the
19 19 office, is it more administrative, keeping records of bills
20 20 of lading?

21 A. Well, it's keeping the records, you know, the
22 22 train consist and the transmission of the train consist,
23 23 and handling of the bills and making the switch list and
24 24 things, various things like that.

25 Q. Was part of the function recording any mishaps or

2 1 incidents?

2 A. No.

3 Q. That might occur in their yard?

4 A. No, none whatsoever.

5 Q. If there had been a mishap and some lading was
6 lost or spillage of some sort, would that come to the
7 clerk's office?

8 A. No, it wouldn't come through it, no. No, that
9 would be handled in the investigation they held, you know,
10 by terminal superintendent or his office, you know.

11 Q. Other than the clerk's office, what other
12 functions did you perform for Penn Central? Did you do any
13 repair work?

14 A. No.

15 Q. Did you work in any of the car shops?

16 A. I worked in the car shops for about a year.

17 Q. Doing what?

18 A. Operating a forklift.

19 Q. For what purpose?

20 A. Oh, picking up supplies and moving them over
21 here, shifting them around and that.

22 MR. CUNNINGHAM: What year are we talking about?

23 MR. RUVOLO: We are talking about the period that
24 he's working for Penn Central.

25 MR. CUNNINGHAM: Do you have a date on this car

2 1 shop?

2 A. No, I take that back, I was working -- it was
3 still New York Central when I worked in the car shop, it
4 was not Penn Central, I'm sorry. I worked there right
5 after I came back, it was still New York Central.

6 Q. Did you have anything to do with the ordering of
7 any supplies that were used there?

8 A. No.

9 Q. If one of the shops wanted some particular
10 supplier equipment would they put a request through your
11 office or anything of that nature?

12 A. No, the car department was a department all of
13 its own, they done all their own -- their office done their
14 own ordering of supplies and that, handled their own, you
15 know, investigations of mishaps or whatever.

3 16 Q. During your period out at Elkhart with Penn
17 Central were you aware of any incidents that may have
18 occurred in the humping yard as far as damage to trains or
19 spillage or loss of lading of some of the cars?

20 A. Well, you had that going on all the time, you
21 know, they'd have derailments in the yard all the time.
22 You could walk through the yard, you know, and find piles
23 of rotten corn and other stuff laying around, you know,
24 that they hadn't cleaned up yet, you know.

25 Q. How about tank car incidents, were you aware of

3 1 any tank car incidents?

2 A. Well, I know one time, I don't know when it was,
3 one time they did. I got thinking about it and one time
4 they did have a train come in the yard and it had a tank
5 that was leaking, they evacuated. I wasn't working at the
6 time, but they was talking about it and they evacuated the
7 people from the yard, some people around there because of
8 it.

9 Q. Do you know what the product was?

10 A. No, I don't, I don't know.

11 Q. Can you give us an approximate time?

12 A. Probably maybe the early '80's, you know.

13 Q. But that was after you had left Penn Central?
14 I'm trying to keep it to the period that you were working
15 for Penn Central.

16 A. When did -- I'm trying to remember when we became
17 Conrail.

18 MR. CUNNINGHAM: '76.

19 THE WITNESS: Was it '76?

20 Q. Uh-huh.

21 A. Okay. No, you know, that's the only really --
22 only real incident that I remember, you know. I mean,
23 there's so many name changes there in a short time that
24 it's kind of hard to remember what, when it all took place.

25 Q. No, I was interested in any major incidents

3 1 rather than -- I know there might be possible, you know,
2 minor incidents.

3 I'm really a novice in the railroad operation,
4 but if you would, would you -- as you were working in the
5 clerk's office would you describe a typical day for me?
6 You came in, what would you do?

7 A.. Well, each job had a different operation, you
8 know. I mean, if you worked the class clerk when the train
9 come in you classified it as what grouping it took and what
10 track it went to; if you worked the hump list clerk you
11 made out the hump list with the car initial number and the
12 grouping and the track that it went to; if you worked the
13 bill rack you switched the bills up into the various tracks
14 that they went to and then when they pulled the cars out of
15 those tracks you'd take them out and line them up and
16 makeup of the train; crew dispatcher, you called the crews
17 for the trains, or when they come into town you'd take
18 their off duties.

19 Q. You did not do any of the actual humping
20 operation, you made up the lists?

21 A. That's it, yeah.

22 Q. And the same with the trains, the makeup of the
23 trains, that would be putting the papers together?

24 A. That would be the yard operations, you know, the
25 transportation department's operations would take care of

3 1 that.

2 Q. Did you ever work as an inspector on the trains?

3 A. No, no.

4 Q. Did you ever work - we talked about the car
5 shop - how about the locomotive?

6 A. No.

7 Q. Any mechanical training?

8 A. No.

9 Q. Any scientific training?

10 A. No.

11 Q. Any security training that you received?

12 A. Security training, no.

13 Q. Any training in regard to handling hazardous
14 materials?

15 A. Well, they put out notices all the time on
16 hazardous materials. We had to -- we had to put a notice
17 out on each train for the conductor and the engine crew and
18 the train crew that the train had hazardous material or
19 flammable material or whatever, you know, and show them
20 where it stood in the train and give them the car initials
21 and numbers and where it stood in the train. Now, the bill
22 rack done that when they made up the trains. We made up
23 the dangerous slips for the conductor and the engineers for
24 the train crews and that showing the initial number and
25 where they stood in the train and the contents of the

4 1 dangerous or, you know, flammable material.

2 Q. Did you ever hear of work on lists which included
3 the shipment of, say, carbon tetrachloride?

4 A. Oh, I'm sure I have at one time or another, you
5 know.

6 Q. Can you recall any other chemicals that might
7 have been on the list that you handled?

8 A. No, chemicals, to name all these chemicals it's
9 just -- I can't pronounce them, the names.

10 Q. You are correct that some of these products might
11 be components under another name brand or something of that
12 nature?

13 A. Right. In fact, the only thing that we showed
14 was -- would show if you made the hump list, you would show
15 flammable or dangerous, or that's all you showed on the
16 hump because you didn't show what it was.

17 Q. There would be a code number or something which
18 would tell?

19 A. Yeah, they would have a -- the bill, bill of
20 lading would have flammable or hazardous on there and when
21 the class clerk classified that particular bill he would
22 underline that so you wouldn't forget it, and then you
23 would put it on the hump list that you prepared so that
24 they would have that information when they humped the
25 train.

4 1 Q. Now, after Conrail took over in the mid '70's did
2 your position change at all?

3 A. No, no.

4 Q. And you stayed with Conrail for how long?

5 A. Until 1988 when I retired.

6 Q. And all that time you were still in clerking,
7 clerk's office doing clerk facilities, you never got -- is
8 there anything different, is what I'm trying to get at?

9 A. No, no.

10 Q. That you did for Conrail that you didn't do for
11 Penn Central?

12 A. No, nothing changed, you know, from New York
13 Central to Penn Central or Conrail, all the functions were
14 the same except, you know, instead on doing it with an old
15 billing typewriter, then you went to IBM and computers and
16 that, that's the only change.

17 Q. Was there any change in attitude on the part of
18 the workers, you know, being taken over?

19 MR. ERMILIO: Objection.

20 Q. If you know.

21 A. I don't think there was any change that amounted
22 to anything, no. I don't think so, at least I had no
23 change in attitude.

24 Q. Did you have an opportunity -- I mean, you were
25 there for a good number of years. Did you have an

4 1 opportunity to move around in the yard itself, did you
2 study any of the operations, did you walk around the yard?

3 A. Oh, various jobs, you know, like no bill clerk,
4 if you worked no bill clerk you was out there walking
5 through the yard, line up the no bill tracks and hold
6 tracks and that. But you look at it, you know, you see
7 what's going on, but it's something that you are not going
8 to be doing, you just watch what they are doing, that's it.

9 Q. Are you aware of an area called Crawford Ditch?

10 A. Yeah. Well, the ditch, the pit where they
11 drained everything to?

12 Q. You tell me.

13 A. Well, yeah, there was a -- there by the diesel
14 house there was a ditch and it was there from day one, from
15 the day they built the yard in 1915, when they opened the
16 yard it was there, and stuff drained to it. I would
17 imagine it came from the car department and the stuff all
18 drained into that, from the whole area drained right into
19 there, and --

20 Q. Were there any other -- were there any other
21 matters of debris such as old railroad ties or something
22 like that dumped in there, in the Crawford Ditch?

23 A. The one I'm talking about was just a pond. That
24 was just a pond. I don't know if they ever dumped anything
25 in it, no, other than it was a drainage pond, is what it

4 1 actually was, you know, where everything drained into it.

2 Q. Was this pond located near the car shop?

3 A. Well, it was closer to the diesel house than the
4 car shops.

5 Q. Were there many areas where you might find
6 dumpsters or something like that to collect debris located
7 throughout the yard?

8 A. Oh, yeah, they had dumpsters most of the major
9 locations, you know, like they had them up there at hump
10 tower, and they had them over at the dormitory, the crews
11 master's office, they had them in the car department, the
12 diesel facilities, they had them all around the yard.

13 Q. How about gallon drums of substances such as fuel
14 oil or otherwise?

15 A. Well, there was drums sitting different places in
16 the yard, what they contained I don't know.

17 Q. How about aerosol cans, supplies that came in
18 aerosol cans, did you notice any of those around the yard?

19 A. No.

20 Q. The supply house or otherwise?

21 A. No, I never had any occasion to go into the
22 supply houses.

23 Q. Were you active in the union or did you hold a
24 position in the union?

25 A. No, no.

5 1 Q. Did you have anything to do with classification
2 lists for the various cars that came into the yard?

3 A. Well, at one time or another I worked, you know,
4 the classification clerk; years ago I worked that. I
5 worked the hump list job probably in the early '80's.

6 Q. Was it your function to keep a record on a
7 particular car that came in if you received a report, say,
8 from the conductor or the train man to the effect that the
9 car was leaking or the car needed repair or something of
10 that nature?

11 A. The only thing they done, would do is put on the
12 hump list that it's a bad order. And then the car itself
13 would have a bad order tag put on it, the outside, the car
14 inspector would put that on, you know, and it would go to
15 the car department, into the car shops for repairs then.

16 Q. Do you keep a record of cars that were cleaned,
17 for example?

18 A. They had a cleaning track there at the
19 facilities, yes. The only thing that the yard office done
20 was make up the list when they pull them and classify them
21 as to where they were going to send the cars to. They
22 would send the -- the car department would send the list up
23 to them and they make their list off of that.

24 Q. Did you ever have anything to do with claims
25 being made by the shipper or the --

5 1 A. No, that would be probably handled by either the
2 claims department or the freight house, you know.

3 MR. RUVOLO: I have no further questions.

4 MR. CUNNINGHAM: I have a few.

5 CROSS-EXAMINATION

6 BY MR. CUNNINGHAM:

7 Q. Mr. Stoner, I'm Pierce Cunningham, I represent
8 your former employer, Penn Central Corporation. And for a
9 minute let me explain to you that my recollection of the
10 events involving the transfer of the various rail companies
11 was as follows, if it helps you: 1967 Penn Central and New
12 York Central were merged, approximately.

13 A. Pennsylvania and New York.

14 Q. Yeah, do you recall that?

15 A. Yeah.

16 Q. And Penn Central under that name operated the
17 Elkhart yard until 1976, when a bankruptcy court authorized
18 the transfer to Conrail, since 1976 Conrail has operated
19 that yard. Is that your understanding?

20 A. Yes, the date, you know, the dates, I just didn't
21 remember dates and that.

22 Q. Now, calling your attention to a period of time
23 between 1965 and 1970, were you at Elkhart at that time and
24 working for Penn Central?

25 A. I was there when the merger between New York

5 1 Central and Penn Central became effective, I was at Burns
2 2 Harbor working at that time.

3 Q. All right, I understand that. So that would have
4 4 been approximately 1967 or '68, right?

5 A. Whatever date they made the --

6 Q. When did you first go to Elkhart?

7 A. First go to Elkhart?

8 Q. Yes.

9 A. In 1944.

10 Q. So did you ever go to Elkhart after 1965?

11 A. I was there except for -- at Elkhart all the time
12 except for my -- just about what, I think it was 21 months
13 I was up at Burns Harbor.

14 Q. So you were there then in the years 1968, '69 and
15 '70?

16 A. What years did you say that the merger was made,
17 it was official?

18 Q. My understanding was 1967 or '68.

19 A. I suppose I went back to Elkhart about '69,
20 something like that.

21 Q. Did you stay then at Elkhart from 1969 until --

22 A. Until I retired, yes.

23 Q. Your retirement?

24 A. Uh-huh.

25 Q. You retired when?

6 1 A. March of '88.

2 Q. Do you recall during the latter '60's when you
3 first went back to Elkhart with Penn Central working with a
4 Claude Brewton?

5 A. Yes.

6 Q. Do you know him?

7 A. He's a policeman or was a policeman the last I
8 knew. I knew him, you know, he worked in the office. I
9 just knew him, not personally.

10 Q. When you say he worked in the office, he worked
11 with you as a co-employee?

12 A. He worked as a clerk, yes.

13 Q. And you were in the same type of job at that
14 time?

15 A. Yeah, more or less. He was -- I think at that
16 time he was working extras, you know, and whatever job they
17 called him for if he could work it.

18 Q. He was a clerk and you were a clerk?

19 A. Yeah.

20 Q. Is that right? And he worked out of what
21 facility, what was it called?

22 A. The yard office, the hump tower, yeah.

23 Q. You both worked at the same location, is that
24 right?

25 A. Yeah.

6 1 Q. Have you talked with Mr. Brewton at all about
2 this lawsuit?

3 A. I haven't talked to Claude Brewton probably for
4 20 years, at least.

5 Q. Do you ever recall his having told you about an
6 incident involving a spill of carbon tetrachloride in the
7 yard?

8 A. No.

9 Q. Do you ever recall his telling you during the
10 late '60's when you worked with him about a derailment of a
11 tank car involving carbon tetrachloride?

12 A. No, I don't.

13 Q. Do you know of any such incident of your own
14 knowledge?

15 A. The only thing I say, that I was saying earlier
16 there, that there had been a -- they evacuated, and I don't
17 even know what year this was.

18 Q. Let me see if I can clarify that just for the
19 record, because we have heard other testimony about that
20 same evacuation and I want to make sure that's the same
21 one. This was an evacuation of part of the City of Elkhart
22 too, was it not?

23 A. I believe it was, yes, sir, it took over
24 somewhere around Franklin Street, Indiana Avenue and them,
25 yes.

6 1 Q. It's my understanding too, as you have testified,
2 that it took place not in the late '60's, but in the early
3 '80's, is that right?

4 A. It seems that would give more -- not in the
5 '60's, it wasn't that far back.

6 Q. So I just wanted to distinguish the two, namely
7 the allegation of Mr. Brewton and this particular incident
8 you are talking about, which is entirely different.

9 A. Yeah.

10 Q. Is that your understanding?

11 A. Yes.

12 Q. Okay. So you know of no spill of carbon
13 tetrachloride from a damaged tank car at Elkhart in the
14 late '60's while you were working with Brewton?

15 A. No.

16 Q. Let me ask you this, just so that we understand
17 procedures, paperwork that may be involved during the time
18 that I'm referring to, the late '60's, when you worked with
19 Mr. Brewton side-by-side --

20 A. I didn't work side-by-side.

21 Q. Oh, you didn't work side-by-side --

22 A. Oh, no.

23 Q. -- when you worked with Mr. Brewton, okay.

24 A. He worked in the same office.

25 Q. But not side-by-side?

6 1 A. No, I probably never worked with him actually
2 more than a dozen times in the same track, you know.

3 Q. That's good for clarification. Back to the
4 procedures, if there was an incident involving the spill of
5 cargo, hazardous or nonhazardous, what was your
6 understanding at that time of the reporting procedure for
7 such an incident?

8 A. Well, that would be handled, the reporting of
9 that would be handled by the car department and the
10 superintendent's office.

11 Q. That would be the superintendent of the yard?

12 A. Terminal superintendent, yes.

13 Q. Terminal superintendent?

14 A. He would have --

15 Q. He would be advised of that, is that what you are
16 saying?

17 A. Right, right.

18 Q. So that, for example, and we are just assuming
19 now, just making an assumption, that you had observed a
20 spill of material from a damaged tank car in the late
21 '60's, what would you have done?

22 A. Well, if I saw it leaking I would report it,
23 probably report it to the yard master, you know, or myself
24 if I observed something like that, yeah.

25 Q. And then would the yard master pass that

7 1 information on to the terminal superintendent?

2 A. I would imagine. Probably the first thing he
3 would do would be to call the car department and have them
4 check it.

5 Q. So the head of the car department would also be
6 advised, is that right?

7 A. Yeah, should be.

8 Q. Now, although I know it's testing your memory,
9 let's talk about people who had those types of jobs when
10 you worked with Mr. Brewton in the late '60's. Now, let's
11 talk about who was the yard master at that time, do you
12 recall?

13 A. Oh, God, we had a lot of them, you know.

14 Q. Give me some names.

15 A. I think it was Fritz Volkert; probably Lyle Pegg.

16 Q. P-e-g?

17 A. P-e-g-g. And a fellow by the name of Ethyl, his
18 last name was Ethyl, D. R. Ethyl was his initials; probably
19 J. W. Mayall.

20 Q. How does he spell that?

21 A. M-a-y-a-l-l.

22 Q. Are these gentlemen among the living, do you
23 know?

24 A. The last I knew they were.

25 Q. They live in the Elkhart area?

7 1 A. Yeah, they probably do.

2 Q. Mr. Stoner, how about the terminal
3 superintendent, do you recall who that was at the time you
4 were there at that period with Mr. Brewton?

5 A. No.

6 Q. Does the name Jim Page mean anything to you?

7 A. Yeah, Caesar. Yeah.

8 Q. Caesar?

9 A. Everybody knows Caesar. He designed the yard, I
10 mean, he was the original.

11 Q. Is he still around?

12 A. I don't know. I heard that he lived in North
13 Fort Myers. Now, whether he's still around or not, I don't
14 know. I worked in the railroad but I had other forms of,
15 you know, other friendships that wasn't in the railroad. I
16 didn't really buddy up with people on the job.

17 Q. I just have a few more questions. With regard to
18 a tank car that may have been involved in a derailment in
19 which the tank was punctured, what would be the procedure
20 involved in that sort of situation? Would Elkhart have
21 repaired that car, do you know?

22 A. Well, I would imagine they would make some
23 temporary repairs or something, whatever they were advised
24 to do.

25 Q. By the owner of the car?

7 1 A. By the owner, or they had numbers that they
2 called for -- say it had a certain thing in it, how
3 dangerous is it, you know, to find out exactly how
4 dangerous things were and they would tell them what to do
5 with it.

6 Q. So, in other words, there was a written policy at
7 Penn Central even in those days for events of that nature
8 where you would call an eight hundred number?

9 A. Yeah.

10 Q. That was your understanding?

11 A. Yeah, uh-huh. Most of them had, you know, a
12 placard, you know.

13 Q. Let's talk about that for a minute. You
14 mentioned where a tank car had been damaged in answer to
15 Mr. Ruvolo's questions there would have been a bad order
16 made up, is that what you said?

17 A. The car department should make out a bad order
18 tag and put it on the car itself.

19 Q. Just for those of us that don't know anything
20 about that, that's sort of a warning on the outside of the
21 car?

22 A. It's a card probably about 3 x 6, something like
23 that, and big bold letters that says bad order on it.

24 Q. That's put on the outside of that tank car?

25 A. That's put on the outside of the car right there.

4 A. Right, right.

8 A. Well, the car department, that would be their
9 function, to take care of that, you know, and I don't know
10 what they would do about it, go to the office or anything.

12 A. No, uh-uh.

15 MR. ERMILIO: I have no questions.

18 REDIRECT EXAMINATION

20 Q. I'd like to show you Exhibit 2 for identification
21 which is a map, a small map, a composite map of the
22 railyard out at Elkhart, and ask you if the layout there is
23 familiar to you?

25 (Document marked as Exhibit Number 2.)

8 1 Q. Now, did you work in the -- you said you worked
2 in the clerk's office?

3 A. Right.

4 Q. And where would that be located?

5 A. Right here is the hump tower, that's where all
6 the clerical work was done. And I also worked over in the
7 dormitory, the crews master's office was over there, and I
8 worked over there also.

9 Q. Would you put a circle around the hump tower
10 where you worked where the clerk's office is and just put a
11 one in there, and put another circle around the other with
12 a two in it.

13 A. Okay.

14 Q. Now, in the hump tower where the clerk's office
15 was located, the train master's office was also located?

16 A. In the hump tower they have a -- in the top floor
17 is the terminal train master, the next floor down is the
18 yard master's office, then there's another floor that's
19 just equipment, and then comes the yard office, and later
20 years when I left the freight office was in there also,
21 then the bottom floor was the terminal superintendent's
22 office and storage rooms.

23 Q. So going on layers of floors, what floor would
24 the clerk's office be?

25 A. Second.

8

1 Q. Second?

2 A. Second floor.

3 Q. And the hump tower as I remember goes -- it
4 starts off quite a bit above the ground?

5 A. Yeah. Well, yeah, it starts off at the top of
6 the hump, at the crest of the hump, yes.

7 Q. From the clerk's office are there windows to the
8 outside?

9 A. Yeah, there's windows that look right directly on
10 the switching track, the hump track where they drop the
11 cars off.

12 Q. Would you from the clerk's office be in a
13 position to watch the cars going up the hump?

14 A. No, no, no, just going down.

15 Q. But once they started down --

16 A. Down, yeah, that's right where -- the first thing
17 you see is they started down.

18 Q. That's where the cars are separated and put on
19 various tracks?

20 A. Right.

21 Q. To be put together to be shipped out?

22 A. Yeah.

23 Q. And if there was an incident where there was a
24 mistake or a car going down the humping process and was
25 going too fast, for example, and collided with one down at

8 1 the bottom of the area and there was an incident, would you
2 be able to observe that from your office?

3 A. No, no.

4 Q. If there was a derailment would you be able to
5 see that?

6 A. You could walk into another room. There was a
7 waiting room for the train men and you could walk in there
8 and see down the hump, but it was blocked from your view in
9 the yard office itself unless you walked into that
10 particular room to look down there. 0

11 Q. If there was an incident where there was a
12 collision between a car going down the hump and one at the
13 base of the hump and it was noticed by somebody looking out
14 on the scene, would it be common practice to say, hey, did
15 you see what just happened and somebody from the clerk's
16 office go and look at it?

17 A. Oh, yeah, if it was a -- you know, if they say we
18 got one on the ground, you know, well, you just -- but
19 they'd say -- you know, there was several of them, why, you
20 might go and take a look, you know, just take a look out
21 the window, that would be about it.

22 Q. Do you have any idea how many cars were being
23 handled a day on the average at that time?

24 A. On the average I think probably close to 4,500 to
25 5,000 cars a day went through that yard, if I remember

9 1 correctly.

2 Q. And were incidents of derailments, et cetera,
3 fairly common during that period?

4 MR. ERMILIO: Objection.

5 MR. CUNNINGHAM: Same objection.

6 Q. You can answer.

7 A. Well, they did have, you, know, not common. You
8 did have cars derailed, you know, as they would be pulling
9 them out of the class track, you'd also have them derailed
10 as they went into the class track, but it wasn't something
11 that happened all the time; it wasn't an everyday -- every
12 hour occurrence, you know.

13 MR. RUVOLO: I have no further questions, thanks.

14 MR. CUNNINGHAM: Nothing further.

15 MR. ERMILIO: I have no questions.

16 (Deposition concluded.)

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Date

Signature

3

4

(STATE OF FLORIDA)

5

(COUNTY OF LEE)

6

7

8

9

The foregoing instrument was acknowledged before

10

me this _____ day of _____,

11

1992, by _____,

12

who is personally known to me, or who has produced _____

13

_____ as

14

identification, and who did (did not) take an oath.

15

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22

Typed, printed or
stamped name

23

Notary Public
State of Florida at Large
My commission expires:

24

25

9 1 (SSTATE OF FLORIDA)

2 2 (COUNTY OF LEE)

3

4

5 I, Sandra Stevens, RPR, CM, Notary Public in and for
6 the State of Florida at Large, do hereby certify that the
7 foregoing deposition of ARTHUR V. STONER, JR., was taken
8 before me, in the cause, at the time and place, and in the
9 presence of Counsel, as stated in the caption hereto, at
10 page 1 hereof; that before giving his deposition said
11 witness was duly sworn by me to testify to the truth, the
12 whole truth, and nothing but the truth; that the
13 typewritten transcription, consisting of pages numbered 1
14 through 32, is a true record of my stenographic notes and
15 electronic recording of the testimony of said witness and
16 of all proceedings had at the session at which said
17 deposition was taken.

18 IN WITNESS WHEREOF, I have hereunto subscribed my
19 name, affixed my seal, this the 2nd day of March, 1993.

20


21

22

23

24

25



Sandra Stevens, RPR, CM
Notary Public
State of Florida at Large
My commission expires: 9-26-94
Commission number CC 039086